

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**919 CIVIL REVISION APPLICATION NO.102 OF 2023**

Kesu s/o. Kisan Lende.

.. **APPLICANT**  
[Orig.Defendant No.5]

**VERSUS**

- 1] Rajiyabi Shaikh Alim
- 2] Bibi Mainoddin Shaikh
- 3] Shaikh Gafur Shaikh Mainoddin
- 4] Saifiyabi Shaikh Usman [Died]
- 4A] Shaikh Kadu Shaikh Usman
- 4B] Malanbi Shaikh Shokat
- 4C] Asmin Shaikh Nabab
- 5] Ramesh s/o. Kisan Tribhuwan
- 6] Umesh s/o. Martandrao Dasarathi
- 7] Udhav s/o. Janardhan Lende
- 8] Badri s/o. Janardhan Lende
- 9] Dnyaneshwar s/o. Keshav Lende
- 10] Bhagwan s/o. Keshav Lende.
- 11] Babanrao s/o. Natha Jagdale
- 12] Prabhakar s/o. Janardhan Wagh
- 13] Shaikh Sandu Shaikh Bhikan
- 14] Shaikh Munir Shaikh Chand
- 15] Rambhabai w/o. Manikrao Hiwale
- 16] Thakubai w/o.Radhakisan Hiwale.

.. **RESPONDENTS**

...  
Mr.R.V.Gore, Advocate for the applicant  
...

**CORAM : ARUN R. PEDNEKER, J.**

**DATE : 17.07.2023**

**P.C. :**

1] Heard the learned counsel for the applicant. The learned counsel for the applicant submits that the plaintiff has filed the suit for partition of the property which stands in the name of the defendant no.1. The learned counsel further submits that the parties in the suit are Muslims and that the defendant no.1 is alive and that there can be no partition of property of defendant no.1 in his lifetime.

2] The applicant is the original defendant no.5 who is vendor of the properties and who has sold property to the defendant no.1. The defendant no.1 has not contested the position in the plaint so far. The applicant – defendant no. 5 being vendor of the property has no cause to file the application under Order 7 Rule 11 of the Civil Procedure Code on the ground that the partition cannot be claimed by the plaintiff in the property of the defendant no.1. Apparently, the applicant has no right left in the suit property having sold the suit property to the defendant

no.1. The application under Order 7 Rule 11 of the CPC in this regard, thus not entertained at the instance of the present applicant.

3] The observations made in the present Civil Revision Application are only for the purpose of deciding the present Civil Revision Application and the same are not made in respect of merits of the matter. In view of the same, the present Civil Revision Application is dismissed.

**[ARUN R. PEDNEKER]**  
**JUDGE**

DDC